

## **Addendum 1**

# **HOUSING ASSISTANCE DIVISION'S COMMITMENT TO PREVENT AND DETECT PROGRAM ABUSE AND FRAUD**

**1. Rationale.**

The U. S. Department of Housing and Urban Development (HUD) conservatively estimates that \$200 million is paid annually to program participants who falsify or omit material facts in order to gain a larger assistance payment than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement. The OCHA is committed to assure that the proper level of benefits is paid to all program participants, and that housing resources reach only eligible families so that program integrity can be maintained.

**2. Criteria for Investigation of Suspected Abuse and Fraud.**

Under no circumstances will the OCHA undertake an inquiry or investigation of an assisted family arbitrarily. The OCHA's expectation is that assisted families will comply with HUD requirements and program rules, and the OCHA staff will make every effort (formally and informally) to orient and educate all assisted families in order to avoid unintentional violations. However, the OCHA has a responsibility to HUD, to the community, and to eligible families in need of housing assistance, to monitor program applicants and participants for compliance and, when indicators of possible abuse come to the OCHA's attention, to investigate such claims.

The OCHA will investigate a program applicant or participant only in the event of one or more of the following circumstances:

- a. **Referrals, Complaints, or Tips.** The OCHA will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone, or in person, which allege that an assisted family is in non-compliance with, or otherwise violating, program rules. Allegations will be requested in writing, however the OCHA will follow up on other leads as appropriate. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be placed in the tenant file.
- b. **Internal File Review.** A follow-up will be made if the OCHA discovers, (as a function of a (re)certification, an interim reevaluation, or a quality control review) information or facts which conflict with previous file data, the OCHA's knowledge of the family, or is in any way discrepant with statements made by the family.
- c. **Verification or Documentation.** A follow-up will be made if the OCHA receives independent verification or documentation which conflicts with representations in the tenant file, (such as public record information or credit bureau reports).

**3. Steps the OCHA will take to Prevent Program Abuse and Fraud.**

The OCHA staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants, assisted families, and landlords. The policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by program families.

- a. **Things You Should Know.** This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify the OCHA's expectations for cooperation and compliance.
- b. **Program Orientation Session.** Mandatory orientation sessions will be conducted by the OCHA Staff for all applicants, either prior to, or upon issuance of a Voucher. At the conclusion of all program orientation sessions, the family representative will be required to sign a briefing declaration to confirm that all rules and pertinent regulations were explained to them.

- c. **Owner/landlord Orientation Session.** Orientation sessions will be conducted with new Section 8 owners/agents prior to, or upon, execution of contract, in order to assure an understanding of owner, family, and the OCHA obligations, and to prevent improper or illegal practices by owners/agents.
- d. **Participant Counseling.** The OCHA staff will routinely offer tenant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.
- e. **Review and Explanation of Voucher and other Supplemental Forms.** Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.
- f. **Use of Instructive Signs and Warnings.** Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

#### 4. Steps the OCHA Will Take to Detect Program Abuse and Fraud.

The OCHA staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

- a. **File Reviews.** Prior to initial eligibility, and at the completion of all subsequent recertifications, at least 5% of the family files will be reviewed. Such reviews shall include, but are not limited to:
  - Changes in reported Social Security numbers or dates of birth
  - Document authenticity
  - Ratio between reported income and expenditures
  - Review of signatures
- b. **Observation.** The OCHA staff (to include Inspectors) will maintain high awareness of circumstances which may indicate program abuse or fraud.
  - Public Record Bulletins will be reviewed by the OCHA staff
- c. **Owner/Landlord Audits.** The OCHA will conduct periodic random quality control audits of Section 8 owners to assure compliance with the HAP Contract. Such audits may include, but are not limited to:
  - Proof of ownership of assisted unit
  - Rent collection receipts/records
  - Maintenance/repair records
  - An inspection of the unit
- d. **State Wage Data Record Keepers.** Inquiries to the applicable Employment Commission under Public Law 100-628, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.
- e. **Credit Bureau Inquiries.** Credit bureau inquiries may be made (with proper authorization by the tenant) in the following circumstances:
  - When an allegation is received by the OCHA wherein unreported income sources are disclosed.
  - When a family's expenditures drastically exceed their reported income and no plausible explanation is given.

**5. The OCHA's Handling of Allegations of Possible Abuse and Fraud.**

The OCHA staff will encourage program applicants, participants, and landlords to report suspected abuse to the OCHA. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the tenant file. All allegations, complaints, and tips will be carefully evaluated in order to determine if they warrant follow-up. The OCHA will not follow up on allegations which are vague or otherwise non-specific. The OCHA will investigate only allegations which contain one or more independently verifiable facts.

**a. File Review. A file review will be conducted to determine:**

- If the subject of the allegation is a program applicant or participant.
- If the allegation contains information not previously known to the OCHA.
- If the OCHA is the most appropriate authority to do a follow-up (more so than police or social services).
- If the participant's past behavior lends credibility to the allegation.
- If there are any other corroborating complaints.

**b. Conclusion of Preliminary Review.** If at the conclusion of the preliminary file review there are facts contained in the allegation which conflict with file data, and the facts are independently verifiable, the OCHA will undertake an investigation to determine if the allegations are true or false.

**6. How the OCHA will Investigate Allegations of Abuse and Fraud.**

When the OCHA has determined that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the OCHA to monitor the program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below:

- a. Credit Bureau Inquiries.** In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity which conflicts with the reported income of the family.
- (1) **Verification of Credit.** In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source.
- b. Employers and Ex-Employers.** Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.
- c. Neighbor/Witnesses.** Neighbors, and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the OCHA's review.
- d. Other Agencies.** Investigators, caseworkers or representatives of other benefit agencies may be contacted.
- e. Public Records.** If relevant, the OCHA may review public records kept in any jurisdictional courthouse. Examples of public records which may be checked include: real estate, marriage, divorce, Uniform Commercial Code financing statements, voter registration, judgments, court or police records, state wage records, utility records, and postal records.

- f. **Head of Household or Family Members.** The OCHA may discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the OCHA office. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the OCHA management. An additional staff person will attend such interviews.
- g. **Inspector General Referrals.** Where there is a preponderance of evidence of fraud or program abuse, especially involving large sums of money, the OCHA may refer the case to the Inspector General's Office. Examples of cases which require referral include:
  - Large deposits in assets with no relevant explanation
  - Suspected collusion between the owner and tenant
  - Evidence of non-residency or subletting
  - Engaging in felonious drug-related or criminal activity
  - Business generating money
  - Unauthorized persons with high income

**7. Placement of Documents, Evidence and Statements Obtained by the OCHA.**

Documents and other evidence obtained by the OCHA during the course of an investigation will be considered "work product" and will be kept in a separate "work file". The work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among the OCHA staff (unless they are involved in the process), or with individuals outside of the OCHA.

**8. Conclusion of the OCHA's Investigative Review.**

At the conclusion of the investigative review, the reviewer will report the findings to the Housing Program Supervisor or designee. It will then be determined whether a violation has occurred, a violation has not occurred, or if the facts are inconclusive.

- a. **Evaluation of the OCHA's Findings.** The OCHA's findings will be evaluated to determine the following factors:
  - (1) The type of violation (non-compliance, fraud).
  - (2) Whether the violation was intentional or unintentional.
  - (3) What amount of money (if any) is owed to the OCHA.
  - (4) Is the family eligible for continued participation?

**9. Action Procedures for Violations which have been Documented.**

Once a program violation has been documented, the violation-type will determine the procedure taken by the OCHA. Violations shall be classified in the following way.

- a. **Procedural Non-compliance – Overpaid Housing Assistance.** When the tenant owes money to the OCHA for failure to report changes in income or assets, the OCHA will issue a Notice of Overpayment. The Notice of Overpayment will contain the following:
  - A description of the violation and dates;
  - The amount owed to the OCHA;
  - A fifteen-calendar-day response period;
  - The right to an Informal Hearing with instructions for the request of such hearing.
- (1) **Tenant Fails to Comply with the OCHA Notice.** If the Tenant fails to comply with the OCHA notice, and a family obligation has been violated, the OCHA will terminate assistance in the manner prescribed by the Administrative Plan.

- (2) **Tenant Complies with the OCHA Notice.** When a tenant complies with the OCHA notice, the staff person responsible will meet with their to discuss and explain the obligation or procedure which was violated, and the consequences of future violations. The Head and /or co-head will be required to attend the meeting. The staff person will then complete a “Notes to the Case”, give one copy to the family, and retain a copy in the tenant file.
- b. **Intentional Misrepresentations.** When a participant falsifies, misstates, omits, or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance, the OCHA must establish, (1) that the tenant had knowledge that their actions were wrong, and (2) that the tenant willfully violated the law.
- (1) **The Tenant had Knowledge that their Actions were Wrong.** This can be demonstrated by showing that the tenant was made aware of program requirements and prohibitions. The tenant’s signature on various certifications, briefing certificate, Personal Declaration, and Things You Should Know are adequate to establish knowledge of wrongdoing.
- (2) **The Tenant Willfully Violated the Law.** Any of the following circumstances is adequate to demonstrate willful intent:
- (a) An admission by the tenant of the misrepresentation.
  - (b) The act was done repeatedly and not reporting during a regularly scheduled reexamination.
  - (c) A false name or Social Security Number was used.
  - (d) There were admissions to others of the illegal action or omission.
  - (e) The tenant omitted material facts which were known to them (e.g., employment of self or other household member).
  - (f) The tenant falsified, forged or altered documents.

#### 10. **The Tenant Conference for Serious Violations and Misrepresentations.**

When the OCHA has established that material misrepresentation(s) have occurred, a Tenant Conference will be scheduled with the family representative(s) and the OCHA staff person who is most knowledgeable about the circumstances of the case.

The Conference notification will provide a reason for the proposed meeting and will request any pertinent documents.

This conference will take place prior to any proposed action by the OCHA. The purpose of such conference is to review the information and evidence obtained by the OCHA with the tenant, and provide the tenant an opportunity to explain any document findings which conflict with representations in the tenant file. Any documents or evidence presented by the tenant will be considered by the OCHA in determining the course of action most appropriate to the case. Prior to the final determination of the proposed action, the OCHA will consider:

- The duration of the violation and number of false statements;
- The tenant’s ability to understand the rules;
- The tenant’s willingness to cooperate, and to accept responsibility for their actions;
- The amount of money involved;
- The tenant’s past history;
- Whether or not intentional misrepresentation has been established.

- a. **Disposition of Cases Involving Misrepresentations.** In all cases of misrepresentation an effort will be made to recover any monies owed. The OCHA may elect, depending upon its evaluation of the criteria stated above, one or more of the following actions:
- (1) **Criminal Prosecution:** If the OCHA has established criminal intent, and the case meets the criteria for prosecution, the OCHA may:
- (a) Refer the case to the local State or District Attorney, and notify HUD's Regional Inspector General for Investigation (RIGI), and terminate rental assistance.
  - (b) Refer the case to HUD's RIGI, and terminate rental assistance.
- (2) **Administrative Remedies:** The OCHA may elect to:
- (a) Terminate assistance and demand payment of restitution in full.
  - (b) Terminate assistance and execute an administrative Repayment Agreement in accordance with the OCHA's Repayment Policy.
  - (c) Terminate assistance and pursue restitution through civil litigation.
  - (d) Continue assistance at the correct rent and demand repayment of restitution in full.
  - (e) Continue assistance at the correct rent and execute an administrative Repayment Agreement in accordance with the OCHA's repayment policy.

**11. Notification to Tenant of Proposed Action.**

The OCHA will notify the tenant of the proposed action no later than fifteen calendar days after the tenant conference by regular and certified mail. Such notice will contain applicable information, including:

- (a) The action being proposed by the OCHA;
- (b) The reason for the proposed action;
- (c) The date on which the proposed action will take place;
- (d) The tenant's right to further explanation, if needed;
- (e) The tenant's right to an Informal Hearing, and the form and date by which request for such hearing must be received;
- (f) A copy of the OCHA's Informal Hearing Procedures.

**PROGRAM ABUSE BY OWNERS**

### **TYPES OF PROGRAM ABUSE BY OWNERS:**

The following represent examples of program abuse by owners:

- Collecting extra (“side”) payments in excess of the family’s share of the rent or requiring the family to perform extraordinary services not included in the lease in lieu of payments. All extra payments must be approved in advance by the OCHA.

Note: The only extra payments which can be considered are those for extra amenities which are not included in the rent for any other units in the building and are not included in the rent in other comparable apartments/houses and which are contained in an agreement, signed by tenant and landlord, with a copy furnished to the OCHA. Examples: membership fees for swimming pool usage, or of parking facilities.

- Collecting assistance payments for units not occupied by Section 8 tenants.
- Collecting false vacancy loss or damage claims.
- Bribes offered to County employees to certify substandard units as standard and other violations of Housing Quality Standards (HQS) which involve misrepresentation or deceit.
- Residing in the assisted unit with the family.

### **PREVENTION:**

- The OCHA will discuss the owners’ legal responsibilities with the owner at the time of the execution of the HAP Contract and in other owner workshops.
- The OCHA will emphasize that appropriate action will be taken if evidence of program abuse is discovered.
- The OCHA will point out to owners that signature on the HAP Contract constitutes notice of the program abuse requirements.
- The OCHA will periodically remind all participating owners of the Division’s intent to eliminate program abuse.

### **CURES:**

- An immediate assessment of the allegations of abuse will be conducted by the OCHA if a complaint has been lodged by an assisted family, the Department of Human Services, Community Inspection, County Attorney, the Police, Legal Aide, other County offices, and the general public.
- If the OCHA has reason to believe that the owner may have abused the program, the OCHA will initiate action to determine whether there has been abuse.
- This may include:
  - (a) obtaining additional information from relevant County agencies and/or where appropriate, from another local agency, such as the Sheriff’s Department, to investigate fraud;
  - (b) forwarding a summary of findings to the Inspector General’s office for cases where the OCHA cannot conduct an initial assessment locally;
  - (c) discussing the situation with the owner and considering the OCHA administrative remedies if the owner’s errors are only minor and appear to be due to a mistake or oversight.

### **OCHA ADMINISTRATIVE REMEDIES:**

- If the OCHA has sufficient evidence to determine that an owner is abusing the program, and/or receiving a benefit to which they are not entitled, the OCHA will take immediate action to terminate the abuse.
- The OCHA must cancel the HAP Contract and issue the family a Voucher while assisting the family in finding another unit.

- In cases where the owner has collected side payments from a participating family, the OCHA must notify the owner that they must immediately cease collecting such payments, and will be responsible for the required payment to the family, through the OCHA, of the full sum the owner illegally collected.
- In cases where a determination of illegal side payments has been made, the OCHA must also determine if the owner also collected side payments from other participating families and follow up to require payment as required. Note: The repayment can be implemented by offsetting the amount due against future Housing Assistance Payments. If the owner does not repay the family, the OCHA must either abate or cancel the HAP Contract.
- If the owner has received any vacancy loss or damage payment based on false information, the OCHA must require the owner to refund the amount of overpayment. If the owner does not repay, the OCHA must either abate or cancel the HAP contract, and will seek other collection remedy.
- The cases where the OCHA has determined a particular owner has committed a very serious program abuse or a number of offenses (as previously described), the OCHA may restrict the owner from future participation in the program for a reasonable time commensurate with the seriousness of the offense.

**INVESTIGATIVE/LEGAL REMEDIES:**

- If the OCHA has reason to believe that the owner's abuse of the program was willful and/or intentional, the OCHA must send a complete history of such case to the Inspector General's office for investigation and possible criminal prosecution.
- If the OCHA does not receive a response from the Department of Housing and Urban Development within sixty days, the OCHA will pursue remedies under state or local law with an information copy sent to the Inspector General's office.
- If the Inspector General's office, or the state and local law agencies, decline prosecution, the OCHA may pursue remedies through civil court.

**PROGRAM ABUSE BY EMPLOYEES**

### **TYPES OF PROGRAM ABUSE BY EMPLOYEES:**

The following represent program abuse by employees:

- Approval of units not meeting Housing Quality Standards.
- Accepting “kickbacks” from owners/managers/tenants to permit participation or to allow rents in excess of the rent reasonableness limitation.
- Intentional violations, including incorrect calculations to Total Tenant Payment or Housing Assistance Payment levels.
- Incorrect determinations of family eligibility.
- Falsifying or altering documents.
- Improperly removing from, or replacing documents in tenant files.
- Changing an applicant’s position on the waiting list.
- Accepting money, gifts, and/or favors from any client or owner for any reason.

### **PREVENTION:**

- The OCHA will discuss with the employees (when hired, and reminders during appraisals) of their program responsibilities and prohibitions of abusing the program.
- The OCHA will maintain sufficient systems for quality control, such as supervisory review of a random sample of staff determinations and staff rotation of assignments, where feasible, to assure adherence to program requirements.
- Periodically, the OCHA may send written communications as needed to its employees stating HUD’s and Orange County’s intent to eliminate program abuse.

### **CURES:**

- If the OCHA determines that any employee has abused the program, it must take whatever action is appropriate under the Orange County Human Resources System, which may include termination of employment.
- If the OCHA has reason to believe that the employee’s abuse of the program was willful or intentional, the OCHA will advise the Inspector General’s office and request investigation and possible criminal prosecution. It will also ask for a determination as to whether the Inspector General’s office will prosecute or whether the case should be handled by state and/or local authorities.
- If the Inspector General’s office does not make a decision within sixty days, the matter will be referred to the appropriate local authority.
- If the Inspector General’s office, or appropriate state and/or local law agencies, decline prosecution, the OCHA may pursue remedies through civil court.